

AMENDED IN SENATE AUGUST 2, 2010

AMENDED IN SENATE JULY 15, 2010

AMENDED IN SENATE MAY 26, 2010

AMENDED IN SENATE JULY 14, 2009

AMENDED IN ASSEMBLY APRIL 13, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1369

Introduced by Assembly Member Davis

February 27, 2009

An act to amend, *repeal, and add* Sections 1208.2, 2900.5, and 4532 of, and to add ~~Sections 1203.018, 1203.019, and 1269d to, and repeal Sections 1203.018, 1203.019 and 1269d of,~~ the Penal Code, relating to electronic monitoring.

LEGISLATIVE COUNSEL'S DIGEST

AB 1369, as amended, Davis. Inmates: electronic monitoring.

Existing law provides that the board of supervisors of any county may authorize the correctional administrator to offer a program under which minimum security inmates and low-risk offenders committed to a county jail or other county correctional facility or granted probation, or inmates participating in a work furlough program, may voluntarily participate in a home detention program. Existing law also provides that the board of supervisors of any county may, upon determination by the correctional administrator that conditions in a jail facility warrant the necessity of releasing sentenced misdemeanor inmates prior to them serving the full amount of a given sentence due to lack of jail space,

offer a program under which specified inmates may be required to participate in an involuntary home detention program.

This bill would provide that, *until January 1, 2015*, upon determination of the correctional administrator that conditions in a jail facility warrant the necessity of releasing inmates being held in lieu of bail, the board of supervisors of any county may authorize the correctional administrator to offer a program under which these inmates may be placed in an electronic monitoring program, as specified. The bill would provide separate authority for voluntary and involuntary electronic monitoring programs. The bill would establish criteria for inmates to be eligible for programs established pursuant to its provisions and would specify circumstances under which inmates may be placed in these programs. The bill would also provide that defendants arrested for a bailable offense who are without any other warrant and who meet certain criteria may apply, after 10 court days from the date of arraignment, for release on reduced bail if the defendant agrees to be placed in the voluntary electronic monitoring program and the court and correctional administrator determine that the defendant is eligible to participate in the electronic monitoring program. The bill would make it a misdemeanor for any inmate who is a participant in an electronic monitoring program to fail to comply with the prescribed rules and regulations. By creating a new crime, this bill would impose a state-mandated local program. The bill would specify, for persons pending disposition of charges, that electronic monitoring programs authorized pursuant to this bill include, but are not limited to, home detention programs, work furlough programs, and work release programs. The bill would make other conforming changes.

Existing law provides for an administrative fee for specified work furlough and voluntary electronic home detention program participants.

This bill would include participants in the voluntary electronic monitoring program for persons pending disposition of charges, and the existing voluntary home detention program, within the coverage of those administrative fee provisions, as specified.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 1203.018 is added to the Penal Code, to read:

1203.018. (a) ~~This~~ *Notwithstanding any other law, this* section shall only apply to inmates being held in lieu of bail and on no other basis. This section shall only apply if the correctional administrator of a county, as defined in paragraph (1) of subdivision (j), makes a determination that conditions in a jail facility warrant the necessity of releasing inmates being held in lieu of bail due to a lack of jail space ~~or due to a current or impending~~ and a court-ordered jail population cap.

(b) Notwithstanding any other law, the board of supervisors of any county may authorize the correctional administrator, as defined in paragraph (1) of subdivision (j), to offer a program under which inmates being held in lieu of bail in a county jail or other county correctional facility may voluntarily participate in an electronic monitoring program if the conditions specified in subdivision (a) are met.

(c) (1) In order to qualify for participation in an electronic monitoring program pursuant to this section, the inmate must be a minimum security inmate with no holds or outstanding warrants and one of the following circumstances must exist:

(A) A magistrate has approved the electronic monitoring release pursuant to Section 1269d.

(B) The inmate has been held in custody for at least 30 calendar days from the date of arraignment pending disposition of only misdemeanor charges.

(C) The inmate has been held in custody pending disposition of charges for at least 60 calendar days from the date of arraignment.

(2) All participants shall be subject to discretionary review by the correctional administrator consistent with this section.

(d) The county board of supervisors, *after consulting with the sheriff and district attorney*, may prescribe reasonable rules and regulations under which an electronic monitoring program pursuant to this section may operate. As a condition of participation in the electronic monitoring program, the participant shall give his or her consent in writing to participate and shall agree in writing to

1 comply with the rules and regulations of the program, including,
2 but not limited to, all of the following:

3 (1) The participant shall remain within the interior premises of
4 his or her residence during the hours designated by the correctional
5 administrator.

6 (2) The participant shall admit any person or agent designated
7 by the correctional administrator into his or her residence at any
8 time for purposes of verifying the participant's compliance with
9 the conditions of his or her detention.

10 (3) If released pursuant to subparagraph (A) of paragraph (1)
11 of subdivision (c), the participant shall post bond prior to being
12 placed on electronic monitoring.

13 (4) The electronic monitoring may include global positioning
14 system devices or other supervising devices for the purpose of
15 helping to verify the participant's compliance with the rules and
16 regulations of the electronic detention program. The devices shall
17 not be used to eavesdrop or record any conversation, except a
18 conversation between the participant and the person supervising
19 the participant to be used solely for the purposes of voice
20 identification.

21 (5) The correctional administrator in charge of the county
22 correctional facility from which the participant was released may,
23 without further order of the court, immediately retake the person
24 into custody if the electronic monitoring or supervising devices
25 are unable for any reason to properly perform their function at the
26 designated place of home detention, if the person fails to remain
27 within the place of home detention as stipulated in the agreement,
28 if the person willfully fails to pay fees to the provider of electronic
29 home detention services, as stipulated in the agreement, subsequent
30 to the written notification of the participant that the payment has
31 not been received and that return to custody may result, or if the
32 person for any other reason no longer meets the established criteria
33 under this section.

34 A copy of the signed consent to participate and a copy of the
35 agreement to comply with the rules and regulations shall be
36 provided to the participant and a copy shall be retained by the
37 correctional administrator.

38 (e) The rules and regulations and administrative policy of the
39 program shall be reviewed on an annual basis by the county board

1 of supervisors and the correctional administrator. The rules and
2 regulations shall be given to every participant.

3 (f) Whenever the peace officer supervising a participant has
4 reasonable cause to believe that the participant is not complying
5 with the rules or conditions of the program, or that the electronic
6 monitoring devices are unable to function properly in the
7 designated place of confinement, the peace officer may, under
8 general or specific authorization of the correctional administrator,
9 and without a warrant of arrest, retake the person into custody.

10 (g) (1) Nothing in this section shall be construed to require the
11 correctional administrator to allow a person to participate in this
12 program if it appears from the record that the person has not
13 satisfactorily complied with reasonable rules and regulations while
14 in custody. A person shall be eligible for participation in an
15 electronic monitoring program only if the correctional administrator
16 concludes that the person meets the criteria for release established
17 under this section and that the person's participation is consistent
18 with any reasonable rules and regulations prescribed by the board
19 of supervisors or the administrative policy of the correctional
20 administrator.

21 (2) The correctional administrator, or his or her designee, shall
22 have discretionary authority consistent with this section to permit
23 program participation as an alternative to physical custody. All
24 persons approved by the court to participate in the electronic
25 monitoring program pursuant to subdivision (c) who are denied
26 participation and all persons removed from program participation
27 shall be notified in writing of the specific reasons for the denial
28 or removal. The notice of denial or removal shall include the
29 participant's appeal rights, as established by program administrative
30 policy.

31 (h) The correctional administrator may permit electronic
32 monitoring program participants to seek and retain employment
33 in the community, attend psychological counseling sessions or
34 educational or vocational training classes, or seek medical and
35 dental assistance. Willful failure of the program participant to
36 return to the place of home detention later than the expiration of
37 any period of time during which he or she is authorized to be away
38 from the place of home detention pursuant to this section and
39 unauthorized departures from the place of home detention are
40 punishable as provided in subdivision (c) of Section 4532.

1 (i) The board of supervisors may prescribe a program
2 administrative fee to be paid by each electronic monitoring
3 participant. If the participant's release is authorized pursuant to
4 Section 1269d, the participant, or the designated bail agent, or
5 both, shall pay any authorized fee.

6 (j) ~~As used in~~ *For purposes of* this section, the following terms
7 have the following meanings:

8 (1) "Correctional administrator" means the sheriff, probation
9 officer, or director of the county department of corrections ~~who is~~
10 ~~responsible for holding inmates in lieu of bail in a facility under~~
11 ~~his or her jurisdiction.~~

12 (2) "Electronic monitoring program" includes, but is not limited
13 to, home detention programs, work furlough programs, and work
14 release programs.

15 (3) "Minimum security inmate" means an inmate who, by
16 established local classification criteria, would be eligible for
17 placement in a Type IV local detention facility, as described in
18 Title 15 of the California Code of Regulations.

19 (k) Notwithstanding any other law, upon request of ~~the~~
20 ~~Corrections Standards Authority~~ or a local law enforcement agency
21 with jurisdiction over the location where a participant in an
22 electronic monitoring program is placed, the correctional
23 administrator shall provide the following information regarding
24 participants in the electronic monitoring program:

25 (1) The participant's name, address, and date of birth.

26 (2) The offense or offenses alleged to have been committed by
27 the participant.

28 (3) The period of time the participant will be placed on home
29 detention.

30 (4) Whether the participant successfully completed the
31 prescribed period of home detention or was returned to a county
32 correctional facility, and if the person was returned to a county
33 correctional facility, the reason for the return.

34 (5) The gender and ethnicity of the participant.

35 (6) If released pursuant to Section 1269d, the name, address,
36 and contact information of any bail agent or surety.

37 (l) Any information received by ~~the Corrections Standards~~
38 ~~Authority~~ or a law enforcement agency pursuant to subdivision

39 (k) shall be used only for the purpose of monitoring the impact of
40 home electronic monitoring programs on the community.

1 (m) It is the intent of the Legislature that electronic monitoring
2 programs established under this section maintain the highest public
3 confidence, credibility, and public safety. In the furtherance of
4 these standards, the following shall apply:

5 (1) The correctional administrator, with the approval of the
6 board of supervisors, may administer an electronic monitoring
7 program as provided in this section pursuant to written contracts
8 with appropriate public or private agencies or entities to provide
9 specified program services. No public or private agency or entity
10 may operate a home detention program pursuant to this section in
11 any county without a written contract with that county's
12 correctional administrator. No public or private agency or entity
13 entering into a contract may itself employ any person who is in
14 the electronic monitoring program.

15 (2) Program participants shall undergo the normal booking
16 process for arrestees entering the jail. All electronic monitoring
17 program participants shall be supervised.

18 (3) (A) All privately operated electronic monitoring programs
19 shall be under the jurisdiction of, and subject to the terms and
20 conditions of the contract entered into with, the correctional
21 administrator.

22 (B) Each contract specified in subparagraph (A) shall include,
23 but not be limited to, all of the following:

24 (i) A provision whereby the private agency or entity agrees to
25 operate in compliance with any available standards promulgated
26 by state correctional agencies and bodies, including the Corrections
27 Standards Authority, and all state and county laws applicable to
28 the operation of electronic monitoring programs and the supervision
29 of offenders in an electronic monitoring program.

30 (ii) A provision that clearly defines areas of respective
31 responsibility and liability of the county and the private agency or
32 entity.

33 (iii) A provision that requires the private agency or entity to
34 demonstrate evidence of financial responsibility, submitted to and
35 approved by the board of supervisors, in amounts and under
36 conditions sufficient to fully indemnify the county for reasonably
37 foreseeable public liability, including legal defense costs, that may
38 arise from, or be proximately caused by, acts or omissions of the
39 contractor.

1 (iv) A provision that requires the private agency or entity to
2 provide evidence of financial responsibility, such as certificates
3 of insurance or copies of insurance policies, prior to commencing
4 any operations pursuant to the contract or at any time requested
5 by the board of supervisors or correctional administrator.

6 (v) A provision that requires an annual review by the
7 correctional administrator to ensure compliance with requirements
8 set by the board of supervisors and for adjustment of the financial
9 responsibility requirements if warranted by caseload changes or
10 other factors.

11 (vi) A provision that permits the correctional administrator to
12 immediately terminate the contract with a private agency or entity
13 at any time that the contractor fails to demonstrate evidence of
14 financial responsibility.

15 (C) All privately operated electronic monitoring programs shall
16 comply with all applicable ordinances and regulations specified
17 in subdivision (a) of Section 1208.

18 (D) The board of supervisors, the correctional administrator,
19 and the designee of the correctional administrator shall comply
20 with Section 1090 of the Government Code in the consideration,
21 making, and execution of contracts pursuant to this section.

22 (E) The failure of the private agency or entity to comply with
23 state or county laws or with the standards established by the
24 contract with the correctional administrator shall constitute cause
25 to terminate the contract.

26 (F) Upon the discovery that a private agency or entity with
27 which there is a contract is not in compliance with this paragraph,
28 the correctional administrator shall give 60 days' notice to the
29 director of the private agency or entity that the contract may be
30 canceled if the specified deficiencies are not corrected.

31 (G) Shorter notice may be given or the contract may be canceled
32 without notice whenever a serious threat to public safety is present
33 because the private agency or entity has failed to comply with this
34 section.

35 (H) For purposes of this section, "evidence of financial
36 responsibility" may include, but is not limited to, certified copies
37 of any of the following:

38 (i) A current liability insurance policy.

39 (ii) A current errors and omissions insurance policy.

40 (iii) A surety bond.

1 (n) *This section shall remain in effect only until January 1, 2015,*
2 *and as of that date is repealed, unless a later enacted statute, that*
3 *is enacted before January 1, 2015, deletes or extends that date.*

4 SEC. 2. Section 1203.019 is added to the Penal Code, to read:

5 1203.019. (a) ~~This~~ *Notwithstanding any other provision of*
6 *law, this* section shall only apply to inmates being held in lieu of
7 bail and on no other basis. This section shall only apply if the
8 correctional administrator of a county, as defined in paragraph (1)
9 of subdivision (j), makes a determination that conditions in a jail
10 facility warrant the necessity of releasing inmates being held in
11 lieu of bail due to a lack of jail space or due to a current or
12 impending court-ordered jail population cap.

13 (b) Notwithstanding any other law, the board of supervisors of
14 any county may authorize the correctional administrator, as defined
15 in paragraph (1) of subdivision (j), to establish a program under
16 which inmates being held in lieu of bail in a county jail or other
17 county correctional facility may be required to participate in an
18 electronic monitoring program if the conditions specified in
19 subdivision (a) are met.

20 (c) (1) In order to qualify for participation in an electronic
21 monitoring program pursuant to this section, the inmate must be
22 a minimum security inmate with no holds or outstanding warrants
23 and one of the following circumstances must exist:

24 (A) The inmate has been in held custody for at least 30 calendar
25 days from the date of arraignment pending disposition of only
26 misdemeanor charges.

27 (B) The inmate has been held in custody pending disposition
28 of charges for at least 60 calendar days from the date of
29 arraignment.

30 (2) All participants shall be subject to discretionary review by
31 the correctional administrator consistent with this section.

32 (d) The county board of supervisors may prescribe reasonable
33 rules and regulations under which an electronic monitoring program
34 may operate. The participant shall be informed in writing of the
35 rules and regulations of the program, including, but not limited to,
36 all of the following:

37 (1) The participant shall remain within the interior premises of
38 his or her residence during the hours designated by the correctional
39 administrator.

1 (2) The participant shall admit any person or agent designated
2 by the correctional administrator into his or her residence at any
3 time for purposes of verifying the participant's compliance with
4 the conditions of his or her detention.

5 (3) The electronic monitoring may include global positioning
6 system devices or other supervising devices for the purpose of
7 helping to verify the participant's compliance with the rules and
8 regulations of the electronic detention program. The devices shall
9 not be used to eavesdrop or record any conversation, except a
10 conversation between the participant and the person supervising
11 the participant to be used solely for the purposes of voice
12 identification.

13 (4) The correctional administrator in charge of the county
14 correctional facility from which the participant was released may,
15 without further order of the court, immediately retake the person
16 into custody if the electronic monitoring or supervising devices
17 are unable for any reason to properly perform their function at the
18 designated place of home detention, if the person fails to remain
19 within the place of home detention or if the person for any other
20 reason no longer meets the established criteria under this section.

21 (e) The rules and regulations and administrative policy of the
22 program shall be reviewed on an annual basis by the county board
23 of supervisors and the correctional administrator. The rules and
24 regulations shall be given to every participant.

25 (f) Whenever the peace officer supervising a participant has
26 reasonable cause to believe that the participant is not complying
27 with the rules or conditions of the program, or that the electronic
28 monitoring devices are unable to function properly in the
29 designated place of confinement, the peace officer may, under
30 general or specific authorization of the correctional administrator,
31 and without a warrant of arrest, retake the person into custody.

32 (g) (1) Nothing in this section shall be construed to require the
33 correctional administrator to place a person in this program if it
34 appears from the record that the person has not satisfactorily
35 complied with reasonable rules and regulations while in custody.
36 A person shall be eligible for participation in an electronic
37 monitoring program only if the correctional administrator
38 concludes that the person meets the criteria for release established
39 under this section and that the person's participation is consistent
40 with any reasonable rules and regulations prescribed by the board

1 of supervisors or the administrative policy of the correctional
2 administrator.

3 (2) The correctional administrator, or his or her designee, shall
4 have discretionary authority consistent with this section to place
5 inmates pursuant to this section as an alternative to physical
6 custody. All persons removed from program participation shall be
7 notified in writing of the specific reasons for the removal. The
8 notice of removal shall include the participant's appeal rights, as
9 established by program administrative policy.

10 (h) The correctional administrator may permit electronic
11 monitoring program participants to seek and retain employment
12 in the community, attend psychological counseling sessions or
13 educational or vocational training classes, or seek medical and
14 dental assistance. Willful failure of the program participant to
15 return to the place of home detention later than the expiration of
16 any period of time during which he or she is authorized to be away
17 from the place of home detention pursuant to this section and
18 unauthorized departures from the place of home detention are
19 punishable as provided in subdivision (c) of Section 4532.

20 (i) Persons participating in this program shall not be charged
21 fees or costs for the program.

22 (j) ~~As used in~~ *For purposes of* this section, the following terms
23 have the following meanings:

24 (1) "Correctional administrator" means the sheriff, probation
25 officer, or director of the county department of corrections ~~who is~~
26 ~~responsible for holding inmates in lieu of bail in a facility under~~
27 ~~his or her jurisdiction.~~

28 (2) "Electronic monitoring program" includes, but is not limited
29 to, home detention programs, work furlough programs, and work
30 release programs.

31 (3) "Minimum security inmate" means an inmate who, by
32 established local classification criteria, would be eligible for
33 placement in a Type IV local detention facility, as described in
34 Title 15 of the California Code of Regulations.

35 (k) Notwithstanding any other law, upon request of ~~the~~
36 ~~Corrections Standards Authority~~ or a local law enforcement agency
37 with jurisdiction over the location where a participant in an
38 electronic monitoring program is placed, the correctional
39 administrator shall provide the following information regarding
40 participants in the electronic monitoring program:

1 (1) The participant's name, address, and date of birth.

2 (2) The offense or offenses alleged to have been committed by
3 the participant.

4 (3) The period of time the participant will be placed on home
5 detention.

6 (4) Whether the participant successfully completed the
7 prescribed period of home detention or was returned to a county
8 correctional facility, and if the person was returned to a county
9 correctional facility, the reason for the return.

10 (5) The gender and ethnicity of the participant.

11 ~~(l) Any information received by the Corrections Standards~~
12 ~~Authority or a law enforcement agency pursuant to subdivision~~
13 ~~(k) shall be used only for the purpose of monitoring the impact of~~
14 ~~home electronic monitoring programs on the community.~~

15 (m) It is the intent of the Legislature that electronic monitoring
16 programs established under this section maintain the highest public
17 confidence, credibility, and public safety. In the furtherance of
18 these standards, the following shall apply:

19 (1) The correctional administrator, with the approval of the
20 board of supervisors, may administer an electronic monitoring
21 program as provided in this section pursuant to written contracts
22 with appropriate public or private agencies or entities to provide
23 specified program services. No public or private agency or entity
24 may operate a home detention program pursuant to this section in
25 any county without a written contract with that county's
26 correctional administrator. No public or private agency or entity
27 entering into a contract may itself employ any person who is in
28 the electronic monitoring program.

29 (2) Program participants shall undergo the normal booking
30 process for arrestees entering the jail. All electronic monitoring
31 program participants shall be supervised.

32 (3) (A) All privately operated electronic monitoring programs
33 shall be under the jurisdiction of, and subject to the terms and
34 conditions of the contract entered into with, the correctional
35 administrator.

36 (B) Each contract specified in subparagraph (A) shall include,
37 but not be limited to, all of the following:

38 (i) A provision whereby the private agency or entity agrees to
39 operate in compliance with any available standards promulgated
40 by state correctional agencies and bodies, including the Corrections

1 ~~Standards Authority~~, and all state and county laws applicable to
2 the operation of electronic monitoring programs and the supervision
3 of sentenced offenders in an electronic monitoring program.

4 (ii) A provision that clearly defines areas of respective
5 responsibility and liability of the county and the private agency or
6 entity.

7 (iii) A provision that requires the private agency or entity to
8 demonstrate evidence of financial responsibility, submitted to and
9 approved by the board of supervisors, in amounts and under
10 conditions sufficient to fully indemnify the county for reasonably
11 foreseeable public liability, including legal defense costs, that may
12 arise from, or be proximately caused by, acts or omissions of the
13 contractor.

14 (iv) A provision that requires the private agency or entity to
15 provide evidence of financial responsibility, such as certificates
16 of insurance or copies of insurance policies, prior to commencing
17 any operations pursuant to the contract or at any time requested
18 by the board of supervisors or correctional administrator.

19 (v) A provision that requires an annual review by the
20 correctional administrator to ensure compliance with requirements
21 set by the board of supervisors and for adjustment of the financial
22 responsibility requirements if warranted by caseload changes or
23 other factors.

24 (vi) A provision that permits the correctional administrator to
25 immediately terminate the contract with a private agency or entity
26 at any time that the contractor fails to demonstrate evidence of
27 financial responsibility.

28 (C) All privately operated electronic monitoring programs shall
29 comply with all applicable ordinances and regulations specified
30 in subdivision (a) of Section 1208.

31 (D) The board of supervisors, the correctional administrator,
32 and the designee of the correctional administrator shall comply
33 with Section 1090 of the Government Code in the consideration,
34 making, and execution of contracts pursuant to this section.

35 (E) The failure of the private agency or entity to comply with
36 state or county laws or with the standards established by the
37 contract and with the correctional administrator shall constitute
38 cause to terminate the contract.

39 (F) Upon the discovery that a private agency or entity with
40 which there is a contract is not in compliance with this paragraph,

1 the correctional administrator shall give 60 days' notice to the
2 director of the private agency or entity that the contract may be
3 canceled if the specified deficiencies are not corrected.

4 (G) Shorter notice may be given or the contract may be canceled
5 without notice whenever a serious threat to public safety is present
6 because the private agency or entity has failed to comply with this
7 section.

8 (H) For purposes of this section, "evidence of financial
9 responsibility" may include, but is not limited to, certified copies
10 of any of the following:

11 (i) A current liability insurance policy.

12 (ii) A current errors and omissions insurance policy.

13 (iii) A surety bond.

14 (n) *This section shall remain in effect only until January 1, 2015,*
15 *and as of that date is repealed, unless a later enacted statute, that*
16 *is enacted before January 1, 2015, deletes or extends that date.*

17 SEC. 3. Section 1208.2 of the Penal Code is amended to read:

18 1208.2. (a) (1) This section shall apply to individuals
19 authorized to participate in a work furlough program pursuant to
20 Section 1208, or to individuals authorized to participate in an
21 electronic home detention program pursuant to Section 1203.016
22 or 1203.018, or to individuals authorized to participate in a county
23 parole program pursuant to Article 3.5 (commencing with Section
24 3074) of Chapter 8 of Title 1 of Part 3.

25 (2) As used in this section, as appropriate, "administrator" means
26 the sheriff, probation officer, director of the county department of
27 corrections, or county parole administrator.

28 (b) (1) A board of supervisors which implements programs
29 identified in paragraph (1) of subdivision (a), may prescribe a
30 program administrative fee and an application fee, that together
31 shall not exceed the pro rata cost of the program to which the
32 person is accepted, including equipment, supervision, and other
33 operating costs, except as provided in paragraph (2).

34 (2) With regard to a privately operated electronic home detention
35 program pursuant to Section 1203.016 or 1203.018, the limitation,
36 described in paragraph (1), in prescribing a program administrative
37 fee and application fee shall not apply.

38 (c) The correctional administrator, or his or her designee, shall
39 not have access to a person's financial data prior to granting or

1 denying a person's participation in, or assigning a person to, any
2 of the programs governed by this section.

3 (d) The correctional administrator, or his or her designee, shall
4 not consider a person's ability or inability to pay all or a portion
5 of the program fee for the purposes of granting or denying a
6 person's participation in, or assigning a person to, any of the
7 programs governed by this section.

8 (e) For purposes of this section, "ability to pay" means the
9 overall capability of the person to reimburse the costs, or a portion
10 of the costs, of providing supervision and shall include, but shall
11 not be limited to, consideration of all of the following factors:

12 (1) Present financial position.

13 (2) Reasonably discernible future financial position. In no event
14 shall the administrator, or his or her designee, consider a period
15 of more than six months from the date of acceptance into the
16 program for purposes of determining reasonably discernible future
17 financial position.

18 (3) Likelihood that the person shall be able to obtain
19 employment within the six-month period from the date of
20 acceptance into the program.

21 (4) Any other factor that may bear upon the person's financial
22 capability to reimburse the county for the fees fixed pursuant to
23 subdivision (b).

24 (f) The administrator, or his or her designee, may charge a
25 person the fee set by the board of supervisors or any portion of the
26 fee and may determine the method and frequency of payment. Any
27 fee the administrator, or his or her designee, charges pursuant to
28 this section shall not in any case be in excess of the fee set by the
29 board of supervisors and shall be based on the person's ability to
30 pay. The administrator, or his or her designee, shall have the option
31 to waive the fees for program supervision when deemed necessary,
32 justified, or in the interests of justice. The fees charged for program
33 supervision may be modified or waived at any time based on the
34 changing financial position of the person. All fees paid by persons
35 for program supervision shall be deposited into the general fund
36 of the county.

37 (g) No person shall be denied consideration for, or be removed
38 from, participation in any of the programs to which this section
39 applies because of an inability to pay all or a portion of the program
40 supervision fees. At any time during a person's sentence, the person

1 may request that the administrator, or his or her designee, modify
2 or suspend the payment of fees on the grounds of a change in
3 circumstances with regard to the person's ability to pay.

4 (h) If the person and the administrator, or his or her designee,
5 are unable to come to an agreement regarding the person's ability
6 to pay, or the amount which is to be paid, or the method and
7 frequency with which payment is to be made, the administrator,
8 or his or her designee, shall advise the appropriate court of the fact
9 that the person and administrator, or his or her designee, have not
10 been able to reach agreement and the court shall then resolve the
11 disagreement by determining the person's ability to pay, the amount
12 which is to be paid, and the method and frequency with which
13 payment is to be made.

14 (i) At the time a person is approved for any of the programs to
15 which this section applies, the administrator, or his or her designee,
16 shall furnish the person a written statement of the person's rights
17 in regard to the program for which the person has been approved,
18 including, but not limited to, both of the following:

19 (1) The fact that the person cannot be denied consideration for
20 or removed from participation in the program because of an
21 inability to pay.

22 (2) The fact that if the person is unable to reach agreement with
23 the administrator, or his or her designee, regarding the person's
24 ability to pay, the amount which is to be paid, or the manner and
25 frequency with which payment is to be made, that the matter shall
26 be referred to the court to resolve the differences.

27 (j) In all circumstances where a county board of supervisors has
28 approved a program administrator, as described in Section
29 1203.016, 1203.018, or 1208, to enter into a contract with a private
30 agency or entity to provide specified program services, the program
31 administrator shall ensure that the provisions of this section are
32 contained within any contractual agreement for this purpose. All
33 privately operated home detention programs shall comply with all
34 appropriate, applicable ordinances and regulations specified in
35 subdivision (a) of Section 1208.

36 (k) *This section shall remain in effect only until January 1, 2015,*
37 *and as of that date is repealed, unless a later enacted statute, that*
38 *is enacted before January 1, 2015, deletes or extends that date.*

39 SEC. 4. Section 1208.2 is added to the Penal Code, to read:

1 1208.2. (a) (1) *This section shall apply to individuals*
2 *authorized to participate in a work furlough program pursuant to*
3 *Section 1208, or to individuals authorized to participate in an*
4 *electronic home detention program pursuant to Section 1203.016,*
5 *or to individuals authorized to participate in a county parole*
6 *program pursuant to Article 3.5 (commencing with Section 3074)*
7 *of Chapter 8 of Title 1 of Part 3.*

8 (2) *As used in this section, as appropriate, “administrator”*
9 *means the sheriff, probation officer, director of the county*
10 *department of corrections, or county parole administrator.*

11 (b) (1) *A board of supervisors which implements programs*
12 *identified in paragraph (1) of subdivision (a), may prescribe a*
13 *program administrative fee and an application fee, that together*
14 *shall not exceed the pro rata cost of the program to which the*
15 *person is accepted, including equipment, supervision, and other*
16 *operating costs, except as provided in paragraph (2).*

17 (2) *With regard to a privately operated electronic home*
18 *detention program pursuant to Section 1203.016, the limitation,*
19 *described in paragraph (1), in prescribing a program*
20 *administrative fee and application fee shall not apply.*

21 (c) *The correctional administrator, or his or her designee, shall*
22 *not have access to a person’s financial data prior to granting or*
23 *denying a person’s participation in, or assigning a person to, any*
24 *of the programs governed by this section.*

25 (d) *The correctional administrator, or his or her designee, shall*
26 *not consider a person’s ability or inability to pay all or a portion*
27 *of the program fee for the purposes of granting or denying a*
28 *person’s participation in, or assigning a person to, any of the*
29 *programs governed by this section.*

30 (e) *For purposes of this section, “ability to pay” means the*
31 *overall capability of the person to reimburse the costs, or a portion*
32 *of the costs, of providing supervision and shall include, but shall*
33 *not be limited to, consideration of all of the following factors:*

34 (1) *Present financial position.*

35 (2) *Reasonably discernible future financial position. In no event*
36 *shall the administrator, or his or her designee, consider a period*
37 *of more than six months from the date of acceptance into the*
38 *program for purposes of determining reasonably discernible future*
39 *financial position.*

1 (3) *Likelihood that the person shall be able to obtain*
2 *employment within the six-month period from the date of*
3 *acceptance into the program.*

4 (4) *Any other factor that may bear upon the person's financial*
5 *capability to reimburse the county for the fees fixed pursuant to*
6 *subdivision (b).*

7 (f) *The administrator, or his or her designee, may charge a*
8 *person the fee set by the board of supervisors or any portion of*
9 *the fee and may determine the method and frequency of payment.*
10 *Any fee the administrator, or his or her designee, charges pursuant*
11 *to this section shall not in any case be in excess of the fee set by*
12 *the board of supervisors and shall be based on the person's ability*
13 *to pay. The administrator, or his or her designee, shall have the*
14 *option to waive the fees for program supervision when deemed*
15 *necessary, justified, or in the interests of justice. The fees charged*
16 *for program supervision may be modified or waived at any time*
17 *based on the changing financial position of the person. All fees*
18 *paid by persons for program supervision shall be deposited into*
19 *the general fund of the county.*

20 (g) *No person shall be denied consideration for, or be removed*
21 *from, participation in any of the programs to which this section*
22 *applies because of an inability to pay all or a portion of the*
23 *program supervision fees. At any time during a person's sentence,*
24 *the person may request that the administrator, or his or her*
25 *designee, modify or suspend the payment of fees on the grounds*
26 *of a change in circumstances with regard to the person's ability*
27 *to pay.*

28 (h) *If the person and the administrator, or his or her designee,*
29 *are unable to come to an agreement regarding the person's ability*
30 *to pay, or the amount which is to be paid, or the method and*
31 *frequency with which payment is to be made, the administrator,*
32 *or his or her designee, shall advise the appropriate court of the*
33 *fact that the person and administrator, or his or her designee, have*
34 *not been able to reach agreement and the court shall then resolve*
35 *the disagreement by determining the person's ability to pay, the*
36 *amount which is to be paid, and the method and frequency with*
37 *which payment is to be made.*

38 (i) *At the time a person is approved for any of the programs to*
39 *which this section applies, the administrator, or his or her*
40 *designee, shall furnish the person a written statement of the*

1 *person's rights in regard to the program for which the person has*
2 *been approved, including, but not limited to, both of the following:*

3 *(1) The fact that the person cannot be denied consideration for*
4 *or removed from participation in the program because of an*
5 *inability to pay.*

6 *(2) The fact that if the person is unable to reach agreement with*
7 *the administrator, or his or her designee, regarding the person's*
8 *ability to pay, the amount which is to be paid, or the manner and*
9 *frequency with which payment is to be made, that the matter shall*
10 *be referred to the court to resolve the differences.*

11 *(j) In all circumstances where a county board of supervisors*
12 *has approved a program administrator, as described in Sections*
13 *1203.016 and 1208, to enter into a contract with a private agency*
14 *or entity to provide specified program services, the program*
15 *administrator shall ensure that the provisions of this section are*
16 *contained within any contractual agreement for this purpose. All*
17 *privately operated home detention programs shall comply with all*
18 *appropriate, applicable ordinances and regulations specified in*
19 *subdivision (a) of Section 1208.*

20 *(k) This section shall become operative on January 1, 2015.*

21 ~~SEC. 4.~~

22 *SEC. 5. Section 1269d is added to the Penal Code, to read:*

23 *1269d. (1)-(a) Notwithstanding any other provision of law,*
24 *if a defendant is arrested without a warrant for a bailable offense*
25 *and meets the criteria specified in paragraph (1) of subdivision (c)*
26 *of Section 1203.018, he or she may, either personally or through*
27 *his or her attorney, friend, or family member, make an application*
28 *to the magistrate after 10 court days from the date of arraignment*
29 *for release on bail reduced by up to 75 percent of the amount of*
30 *the defendant's bail.*

31 ~~(2)~~

32 *(b) A court may reduce a defendant's bail by up to 75 percent*
33 *pursuant to this section only if a defendant is placed in an electronic*
34 *monitoring program authorized by a county board of supervisors*
35 *pursuant to Section 1203.018, and the court and correctional*
36 *administrator make determinations that the defendant is eligible*
37 *to participate in an electronic monitoring program as defined in*
38 *Section 1203.018.*

39 ~~(3)~~

1 (c) Nothing in this section is intended to affect the provisions
2 of Section 1305.

3 (d) *This section shall remain in effect only until January 1, 2015,*
4 *and as of that date is repealed, unless a later enacted statute, that*
5 *is enacted before January 1, 2015, deletes or extends that date.*

6 ~~SEC. 5.~~

7 SEC. 6. Section 2900.5 of the Penal Code is amended to read:

8 2900.5. (a) In all felony and misdemeanor convictions, either
9 by plea or by verdict, when the defendant has been in custody,
10 including, but not limited to, any time spent in a jail, camp, work
11 furlough facility, halfway house, rehabilitation facility, hospital,
12 prison, juvenile detention facility, or similar residential institution,
13 all days of custody of the defendant, including days served as a
14 condition of probation in compliance with a court order, days
15 credited to the period of confinement pursuant to Section 4019,
16 and days served in home detention pursuant to Section 1203.018
17 or 1203.019, shall be credited upon his or her term of
18 imprisonment, or credited to any fine on a proportional basis,
19 including, but not limited to, base fines and restitution fines, which
20 may be imposed, at the rate of not less than thirty dollars (\$30)
21 per day, or more, in the discretion of the court imposing the
22 sentence. If the total number of days in custody exceeds the number
23 of days of the term of imprisonment to be imposed, the entire term
24 of imprisonment shall be deemed to have been served. In any case
25 where the court has imposed both a prison or jail term of
26 imprisonment and a fine, any days to be credited to the defendant
27 shall first be applied to the term of imprisonment imposed, and
28 thereafter the remaining days, if any, shall be applied to the fine
29 on a proportional basis, including, but not limited to, base fines
30 and restitution fines.

31 (b) For the purposes of this section, credit shall be given only
32 where the custody to be credited is attributable to proceedings
33 related to the same conduct for which the defendant has been
34 convicted. Credit shall be given only once for a single period of
35 custody attributable to multiple offenses for which a consecutive
36 sentence is imposed.

37 (c) For the purposes of this section, “term of imprisonment”
38 includes any period of imprisonment imposed as a condition of
39 probation or otherwise ordered by a court in imposing or
40 suspending the imposition of any sentence, and also includes any

1 term of imprisonment, including any period of imprisonment prior
2 to release on parole and any period of imprisonment and parole,
3 prior to discharge, whether established or fixed by statute, by any
4 court, or by any duly authorized administrative agency.

5 (d) It shall be the duty of the court imposing the sentence to
6 determine the date or dates of any admission to, and release from,
7 custody prior to sentencing and the total number of days to be
8 credited pursuant to this section. The total number of days to be
9 credited shall be contained in the abstract of judgment provided
10 for in Section 1213.

11 (e) It shall be the duty of any agency to which a person is
12 committed to apply the credit provided for in this section for the
13 period between the date of sentencing and the date the person is
14 delivered to the agency.

15 (f) If a defendant serves time in a camp, work furlough facility,
16 halfway house, rehabilitation facility, hospital, juvenile detention
17 facility, similar residential facility, or home detention program
18 pursuant to Section 1203.016, 1203.017, 1203.018, or 1203.019
19 in lieu of imprisonment in a county jail, and the statute under which
20 the defendant is sentenced requires a mandatory minimum period
21 of time in jail, the time spent in these facilities or programs shall
22 qualify as mandatory time in jail.

23 (g) Notwithstanding any other provision of this code as it
24 pertains to the sentencing of convicted offenders, nothing in this
25 section is to be construed as authorizing the sentencing of convicted
26 offenders to any of the facilities or programs mentioned herein.

27 (h) This section shall become operative on January 1, 1999.

28 (i) *This section shall remain in effect only until January 1, 2015,*
29 *and as of that date is repealed, unless a later enacted statute, that*
30 *is enacted before January 1, 2015, deletes or extends that date.*

31 SEC. 7. Section 2900.5 is added to the Penal Code, to read:

32 2900.5. (a) *In all felony and misdemeanor convictions, either*
33 *by plea or by verdict, when the defendant has been in custody,*
34 *including, but not limited to, any time spent in a jail, camp, work*
35 *furlough facility, halfway house, rehabilitation facility, hospital,*
36 *prison, juvenile detention facility, or similar residential institution,*
37 *all days of custody of the defendant, including days served as a*
38 *condition of probation in compliance with a court order, and*
39 *including days credited to the period of confinement pursuant to*
40 *Section 4019, shall be credited upon his or her term of*

1 imprisonment, or credited to any fine on a proportional basis,
2 including, but not limited to, base fines and restitution fines, which
3 may be imposed, at the rate of not less than thirty dollars (\$30)
4 per day, or more, in the discretion of the court imposing the
5 sentence. If the total number of days in custody exceeds the number
6 of days of the term of imprisonment to be imposed, the entire term
7 of imprisonment shall be deemed to have been served. In any case
8 where the court has imposed both a prison or jail term of
9 imprisonment and a fine, any days to be credited to the defendant
10 shall first be applied to the term of imprisonment imposed, and
11 thereafter the remaining days, if any, shall be applied to the fine
12 on a proportional basis, including, but not limited to, base fines
13 and restitution fines.

14 (b) For the purposes of this section, credit shall be given only
15 where the custody to be credited is attributable to proceedings
16 related to the same conduct for which the defendant has been
17 convicted. Credit shall be given only once for a single period of
18 custody attributable to multiple offenses for which a consecutive
19 sentence is imposed.

20 (c) For the purposes of this section, “term of imprisonment”
21 includes any period of imprisonment imposed as a condition of
22 probation or otherwise ordered by a court in imposing or
23 suspending the imposition of any sentence, and also includes any
24 term of imprisonment, including any period of imprisonment prior
25 to release on parole and any period of imprisonment and parole,
26 prior to discharge, whether established or fixed by statute, by any
27 court, or by any duly authorized administrative agency.

28 (d) It shall be the duty of the court imposing the sentence to
29 determine the date or dates of any admission to, and release from,
30 custody prior to sentencing and the total number of days to be
31 credited pursuant to this section. The total number of days to be
32 credited shall be contained in the abstract of judgment provided
33 for in Section 1213.

34 (e) It shall be the duty of any agency to which a person is
35 committed to apply the credit provided for in this section for the
36 period between the date of sentencing and the date the person is
37 delivered to the agency.

38 (f) If a defendant serves time in a camp, work furlough facility,
39 halfway house, rehabilitation facility, hospital, juvenile detention
40 facility, similar residential facility, or home detention program in

1 *lieu of imprisonment in a county jail, and the statute under which*
2 *the defendant is sentenced requires a mandatory minimum period*
3 *of time in jail, the time spent in these facilities or programs shall*
4 *qualify as mandatory time in jail.*

5 *(g) Notwithstanding any other provision sentencing of convicted*
6 *offenders, nothing as authorizing the sentencing of convicted or*
7 *programs mentioned herein.*

8 *(h) This section shall become operative on January 1, 2015.*

9 **SEC. 6.**

10 **SEC. 8.** Section 4532 of the Penal Code is amended to read:

11 4532. (a) (1) Every prisoner arrested and booked for, charged
12 with, or convicted of a misdemeanor, and every person committed
13 under the terms of Section 5654, 5656, or 5677 of the Welfare and
14 Institutions Code as an inebriate, who is confined in any county
15 or city jail, prison, industrial farm, or industrial road camp, is
16 engaged on any county road or other county work, is in the lawful
17 custody of any officer or person, is employed or continuing in his
18 or her regular educational program or authorized to secure
19 employment or education away from the place of confinement,
20 pursuant to the Cobey Work Furlough Law (Section 1208), is
21 authorized for temporary release for family emergencies or for
22 purposes preparatory to his or her return to the community pursuant
23 to Section 4018.6, or is a participant in a home detention program
24 pursuant to Section 1203.016, and who thereafter escapes or
25 attempts to escape from the county or city jail, prison, industrial
26 farm, or industrial road camp or from the custody of the officer or
27 person in charge of him or her while engaged in or going to or
28 returning from the county work or from the custody of any officer
29 or person in whose lawful custody he or she is, or from the place
30 of confinement in a home detention program pursuant to Section
31 1203.016, is guilty of a felony and, if the escape or attempt to
32 escape was not by force or violence, is punishable by imprisonment
33 in the state prison for a determinate term of one year and one day,
34 or in a county jail not exceeding one year.

35 (2) If the escape or attempt to escape described in paragraph
36 (1) is committed by force or violence, the person is guilty of a
37 felony, punishable by imprisonment in the state prison for two,
38 four, or six years to be served consecutively, or in a county jail
39 not exceeding one year. When the second term of imprisonment

1 is to be served in a county jail, it shall commence from the time
2 the prisoner otherwise would have been discharged from jail.

3 (3) A conviction of a violation of this subdivision, or a violation
4 of subdivision (b) involving a participant of a home detention
5 program pursuant to Section 1203.016, that is not committed by
6 force or violence, shall not be charged as a prior felony conviction
7 in any subsequent prosecution for a public offense.

8 (b) (1) Every prisoner arrested and booked for, charged with,
9 or convicted of a felony, and every person committed by order of
10 the juvenile court, who is confined in any county or city jail, prison,
11 industrial farm, or industrial road camp, is engaged on any county
12 road or other county work, is in the lawful custody of any officer
13 or person, or is confined pursuant to Section 4011.9, is a participant
14 in a home detention program pursuant to Section 1203.016, who
15 escapes or attempts to escape from a county or city jail, prison,
16 industrial farm, or industrial road camp or from the custody of the
17 officer or person in charge of him or her while engaged in or going
18 to or returning from the county work or from the custody of any
19 officer or person in whose lawful custody he or she is, or from
20 confinement pursuant to Section 4011.9, or from the place of
21 confinement in a home detention program pursuant to Section
22 1203.016, is guilty of a felony and, if the escape or attempt to
23 escape was not by force or violence, is punishable by imprisonment
24 in the state prison for 16 months, two years, or three years, to be
25 served consecutively, or in a county jail not exceeding one year.

26 (2) If the escape or attempt to escape described in paragraph
27 (1) is committed by force or violence, the person is guilty of a
28 felony, punishable by imprisonment in the state prison for a full
29 term of two, four, or six years to be served consecutively to any
30 other term of imprisonment, commencing from the time the person
31 otherwise would have been released from imprisonment and the
32 term shall not be subject to reduction pursuant to subdivision (a)
33 of Section 1170.1, or in a county jail for a consecutive term not to
34 exceed one year, that term to commence from the time the prisoner
35 otherwise would have been discharged from jail.

36 (c) Notwithstanding any other law, every prisoner who is a
37 participant in an electronic monitoring program pursuant to Section
38 1203.018 or 1203.019 who willfully fails to comply with the
39 prescribed rules and regulations of that program is guilty of a
40 misdemeanor.

1 (d) (1) Except in unusual cases where the interests of justice
2 would best be served if the person is granted probation, probation
3 shall not be granted to any person who is convicted of a felony
4 offense under this section in that he or she escaped or attempted
5 to escape from a secure main jail facility, from a court building,
6 or while being transported between the court building and the jail
7 facility.

8 (2) In any case in which a person is convicted of a violation of
9 this section designated as a misdemeanor, he or she shall be
10 confined in a county jail for not less than 90 days nor more than
11 one year except in unusual cases where the interests of justice
12 would best be served by the granting of probation.

13 (3) For the purposes of this subdivision, “main jail facility”
14 means the facility used for the detention of persons pending
15 arraignment, after arraignment, during trial, and upon sentence or
16 commitment. The facility shall not include an industrial farm,
17 industrial road camp, work furlough facility, or any other nonsecure
18 facility used primarily for sentenced prisoners. As used in this
19 subdivision, “secure” means that the facility contains an outer
20 perimeter characterized by the use of physically restricting
21 construction, hardware, and procedures designed to eliminate
22 ingress and egress from the facility except through a closely
23 supervised gate or doorway.

24 (4) If the court grants probation under this subdivision, it shall
25 specify the reason or reasons for that order on the court record.

26 (5) Any sentence imposed under this subdivision shall be served
27 consecutive to any other sentence in effect or pending.

28 (e) The willful failure of a prisoner, whether convicted of a
29 felony or a misdemeanor, to return to his or her place of
30 confinement no later than the expiration of the period that he or
31 she was authorized to be away from that place of confinement, is
32 an escape from that place of confinement. This subdivision applies
33 to a prisoner who is employed or continuing in his or her regular
34 educational program, authorized to secure employment or education
35 pursuant to the Cobey Work Furlough Law (Section 1208),
36 authorized for temporary release for family emergencies or for
37 purposes preparatory to his or her return to the community pursuant
38 to Section 4018.6, or permitted to participate in a home detention
39 program pursuant to Section 1203.016. A prisoner convicted of a
40 misdemeanor who willfully fails to return to his or her place of

1 confinement under this subdivision shall be punished as provided
2 in paragraph (1) of subdivision (a). A prisoner convicted of a felony
3 who willfully fails to return to his or her place of confinement shall
4 be punished as provided in paragraph (1) of subdivision (b).

5 *(f) This section shall remain in effect only until January 1, 2015,*
6 *and as of that date is repealed, unless a later enacted statute, that*
7 *is enacted before January 1, 2015, deletes or extends that date.*

8 SEC. 9. Section 4532 is added to the Penal Code, to read:

9 4532. (a) (1) Every prisoner arrested and booked for, charged
10 with, or convicted of a misdemeanor, and every person committed
11 under the terms of Section 5654, 5656, or 5677 of the Welfare and
12 Institutions Code as an inebriate, who is confined in any county
13 or city jail, prison, industrial farm, or industrial road camp, is
14 engaged on any county road or other county work, is in the lawful
15 custody of any officer or person, is employed or continuing in his
16 or her regular educational program or authorized to secure
17 employment or education away from the place of confinement,
18 pursuant to the Cobey Work Furlough Law (Section 1208), is
19 authorized for temporary release for family emergencies or for
20 purposes preparatory to his or her return to the community
21 pursuant to Section 4018.6, or is a participant in a home detention
22 program pursuant to Section 1203.016, and who thereafter escapes
23 or attempts to escape from the county or city jail, prison, industrial
24 farm, or industrial road camp or from the custody of the officer
25 or person in charge of him or her while engaged in or going to or
26 returning from the county work or from the custody of any officer
27 or person in whose lawful custody he or she is, or from the place
28 of confinement in a home detention program pursuant to Section
29 1203.016, is guilty of a felony and, if the escape or attempt to
30 escape was not by force or violence, is punishable by imprisonment
31 in the state prison for a determinate term of one year and one day,
32 or in a county jail not exceeding one year.

33 (2) If the escape or attempt to escape described in paragraph
34 (1) is committed by force or violence, the person is guilty of a
35 felony, punishable by imprisonment in the state prison for two,
36 four, or six years to be served consecutively, or in a county jail
37 not exceeding one year. When the second term of imprisonment is
38 to be served in a county jail, it shall commence from the time the
39 prisoner otherwise would have been discharged from jail.

1 (3) *A conviction of a violation of this subdivision, or a violation*
2 *of subdivision (b) involving a participant of a home detention*
3 *program pursuant to Section 1203.016, that is not committed by*
4 *force or violence, shall not be charged as a prior felony conviction*
5 *in any subsequent prosecution for a public offense.*

6 (b) (1) *Every prisoner arrested and booked for, charged with,*
7 *or convicted of a felony, and every person committed by order of*
8 *the juvenile court, who is confined in any county or city jail, prison,*
9 *industrial farm, or industrial road camp, is engaged on any county*
10 *road or other county work, is in the lawful custody of any officer*
11 *or person, or is confined pursuant to Section 4011.9, is a*
12 *participant in a home detention program pursuant to Section*
13 *1203.016, who escapes or attempts to escape from a county or city*
14 *jail, prison, industrial farm, or industrial road camp or from the*
15 *custody of the officer or person in charge of him or her while*
16 *engaged in or going to or returning from the county work or from*
17 *the custody of any officer or person in whose lawful custody he or*
18 *she is, or from confinement pursuant to Section 4011.9, or from*
19 *the place of confinement in a home detention program pursuant*
20 *to Section 1203.016, is guilty of a felony and, if the escape or*
21 *attempt to escape was not by force or violence, is punishable by*
22 *imprisonment in the state prison for 16 months, two years, or three*
23 *years, to be served consecutively, or in a county jail not exceeding*
24 *one year.*

25 (2) *If the escape or attempt to escape described in paragraph*
26 *(1) is committed by force or violence, the person is guilty of a*
27 *felony, punishable by imprisonment in the state prison for a full*
28 *term of two, four, or six years to be served consecutively to any*
29 *other term of imprisonment, commencing from the time the person*
30 *otherwise would have been released from imprisonment and the*
31 *term shall not be subject to reduction pursuant to subdivision (a)*
32 *of Section 1170.1, or in a county jail for a consecutive term not to*
33 *exceed one year, that term to commence from the time the prisoner*
34 *otherwise would have been discharged from jail.*

35 (c) (1) *Except in unusual cases where the interests of justice*
36 *would best be served if the person is granted probation, probation*
37 *shall not be granted to any person who is convicted of a felony*
38 *offense under this section in that he or she escaped or attempted*
39 *to escape from a secure main jail facility, from a court building,*

1 *or while being transported between the court building and the jail*
2 *facility.*

3 *(2) In any case in which a person is convicted of a violation of*
4 *this section designated as a misdemeanor, he or she shall be*
5 *confined in a county jail for not less than 90 days nor more than*
6 *one year except in unusual cases where the interests of justice*
7 *would best be served by the granting of probation.*

8 *(3) For the purposes of this subdivision, “main jail facility”*
9 *means the facility used for the detention of persons pending*
10 *arraignment, after arraignment, during trial, and upon sentence*
11 *or commitment. The facility shall not include an industrial farm,*
12 *industrial road camp, work furlough facility, or any other*
13 *nonsecure facility used primarily for sentenced prisoners. As used*
14 *in this subdivision, “secure” means that the facility contains an*
15 *outer perimeter characterized by the use of physically restricting*
16 *construction, hardware, and procedures designed to eliminate*
17 *ingress and egress from the facility except through a closely*
18 *supervised gate or doorway.*

19 *(4) If the court grants probation under this subdivision, it shall*
20 *specify the reason or reasons for that order on the court record.*

21 *(5) Any sentence imposed under this subdivision shall be served*
22 *consecutive to any other sentence in effect or pending.*

23 *(d) The willful failure of a prisoner, whether convicted of a*
24 *felony or a misdemeanor, to return to his or her place of*
25 *confinement no later than the expiration of the period that he or*
26 *she was authorized to be away from that place of confinement, is*
27 *an escape from that place of confinement. This subdivision applies*
28 *to a prisoner who is employed or continuing in his or her regular*
29 *educational program, authorized to secure employment or*
30 *education pursuant to the Cobey Work Furlough Law (Section*
31 *1208), authorized for temporary release for family emergencies*
32 *or for purposes preparatory to his or her return to the community*
33 *pursuant to Section 4018.6, or permitted to participate in a home*
34 *detention program pursuant to Section 1203.016. A prisoner*
35 *convicted of a misdemeanor who willfully fails to return to his or*
36 *her place of confinement under this subdivision shall be punished*
37 *as provided in paragraph (1) of subdivision (a). A prisoner*
38 *convicted of a felony who willfully fails to return to his or her*
39 *place of confinement shall be punished as provided in paragraph*
40 *(1) of subdivision (b).*

1 (e) *This section shall become operative January 1, 2015.*

2 ~~SEC. 7.~~

3 ~~SEC. 10.~~ No reimbursement is required by this act pursuant to
4 Section 6 of Article XIII B of the California Constitution because
5 the only costs that may be incurred by a local agency or school
6 district will be incurred because this act creates a new crime or
7 infraction, eliminates a crime or infraction, or changes the penalty
8 for a crime or infraction, within the meaning of Section 17556 of
9 the Government Code, or changes the definition of a crime within
10 the meaning of Section 6 of Article XIII B of the California
11 Constitution.